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Signature: *Paula A. Clark* Date: *2 July 2009*

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re Application of: PEERY, J.R. ; et al.	Confirmation No.: 7202
Serial No.: 10/645,293	Art Unit: 1618
Filing Date: 20 August 2003	Examiner: SAMALA, J.R.
Title: SUSTAINED DELIVERY OF AN ACTIVE AGENT USING AN IMPLANTABLE SYSTEM	

**TERMINAL DISCLAIMER TO OBLIGATE A DOUBLE PATENTING REJECTION
OVER A "PRIOR" PATENT**

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Intarcia Therapeutics, Inc., hereinafter "Assignee", a Delaware corporation, having an address at 24650 Industrial Boulevard, Hayward, CA, 94545, is the owner of the entire right, title and interest in and to U.S. Patent Application Serial No. 10/645,293, filed 20 August 2003, by virtue of assignments at Reel/Frame 008540/0624 and 020252/0143, recorded, respectively, on 01/30/1997 and 12/13/2007, herein after referred to as the "present" application, and is also the owner of the entire right, title and interest in and to U.S. Patent Application Serial No. 08/791,699, filed 30 January 1997, now U.S. Patent No. 5,728,396, issued 17 March 1998, by virtue of assignments at Reel/Frame 008540/0624 and

020252/0143 recorded, respectively, on 01/30/1997 and 12/13/2007, hereinafter referred to as the "prior" patent.

In accordance with 37 C.F.R. §3.73(b), Assignee hereby certifies that the evidentiary documents with respect to its ownership have been reviewed and that, to the best of Assignee's knowledge and belief, title is in the Assignee seeking to take this action.

The Assignee hereby disclaims, except as provided below, the terminal part of the statutory term of any patent, as defined in 35 U.S.C. §154 and §173, granted on the present application which would extend beyond the expiration date of the full statutory term of the prior patent, and as the term of the prior patent is presently shortened by any terminal disclaimer.

The Assignee hereby agrees that any patent so granted on the present application shall be enforceable only for and during such period that it and the prior patent are commonly owned. This agreement runs with any patent granted on the present application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, the Assignee does not disclaim the terminal part of any patent granted on the present application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. §154 and §173 of the prior patent in the event that the prior patent later:

- expires for failure to pay a maintenance fee;
- is held unenforceable;
- is found invalid by a court of competent jurisdiction;
- is statutorily disclaimed in whole or terminally disclaimed under 37 C.F.R. 1.321(a);
- has all claims canceled by a reexamination certificate;
- is reissued; or
- is in any manner terminated prior to the expiration of its full statutory term as shortened by any terminal disclaimer filed prior to its grant, except for the separation of legal title stated above.

Authorization to charge the Assignee's Deposit Account for the Terminal Disclaimer fee under 37 C.F.R. §1.20(d) accompanies this paper in the Transmittal Letter.

This Terminal Disclaimer is submitted on behalf of Assignee, a Delaware corporation, and the undersigned is empowered to act on behalf of the corporation.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

By:  Date: 7/21/09

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